

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 545 Residential Property Sales  
**SPONSOR(S):** Patterson  
**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Insurance, Business & Financial Affairs Policy Committee	14 Y, 0 N	Callaway	Cooper
2) Policy Council	16 Y, 0 N	Liepshutz	Cicccone
3) General Government Policy Council	16 Y, 0 N	Callaway	Hamby
4) House Vote on Final Passage	113 Y, 0 N		
5)			

### SUMMARY ANALYSIS

Pursuant to current law, in November 2007 the Financial Services Commission adopted a uniform home grading scale to grade the ability of a home to withstand the wind load from a tropical storm or hurricane. The rating system scores homes on a scale of 1 to 100.

In 2008, the Legislature passed a law that established a two-part phase-in of a requirement that sellers of homes located in the state's wind borne debris region disclose the home's windstorm mitigation rating based on the grading scale:

- The first part of the phase-in was to begin January 2010 and would have required sellers of homes insured by Citizens Property Insurance Corporation for \$500,000 or more to disclose the home's windstorm mitigation rating to buyers. However, in 2009, before it took effect, this disclosure requirement was repealed.
- The second part of the phase-in, which is to begin on January 1, 2011, and is the subject of the bill, requires sellers of any home in the windborne debris region to disclose the home's rating.

This bill proposes to repeal the second part of the disclosure phase-in before it takes effect in January 2011. Consequently, sellers of homes located in the wind borne debris region would not be required, beginning January 2011, to disclose the home's windstorm mitigation rating.

The bill has no fiscal impact on state or local government. The bill would save sellers of homes located in the wind borne debris region the cost of a windstorm mitigation inspection.

The bill is effective upon becoming a law.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Background

Pursuant to current law, in November 2007 the Financial Services Commission adopted a uniform home grading scale to grade the ability of a home to withstand the wind load from a tropical storm or hurricane.<sup>1</sup> The rating system scores homes on a scale of 1 to 100. The primary factors used to calculate the home rating score include roof shape, secondary water resistance, roof cover, roof deck attachment, roof-to-wall connection, opening protection, number of stories, and roof covering type. General geographic features of wind zone location and local terrain are also used to calculate a home's score.

Although a home grading scale is in place, Florida homes are not presently required by law to be graded. The grading scale is also not currently used to calculate mitigation discounts<sup>2</sup> though it will be used for discount calculations in the future.<sup>3</sup> Today's mitigation discount amounts are based on wind loss relativities developed in a study adopted by the Office of Insurance Regulation (OIR) in 2002 and are not linked to a home's mitigation rating given by the grading scale.

In 2008, the Legislature passed a law that established a two-part phase-in of a requirement that sellers of homes located in the state's wind borne debris region disclose the home's windstorm mitigation rating based on the home grading scale to buyers<sup>4</sup>:

- The first part of the phase-in was to begin in January 2010 and would have required sellers of homes insured by Citizens Property Insurance Corporation for \$500,000 or more to disclose the

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<sup>1</sup> Rule 69O-167.015, F.A.C.

<sup>2</sup> Current law requires insurance companies to give homeowners mitigation discounts for mitigation features installed in their home. Mitigation discounts are advantageous for homeowners as they reduce the home's wind premium.

<sup>3</sup> Section 627.0629(1)(b), F.S., requires the OIR to develop a method by February 1, 2011 for insurance companies to establish mitigation discounts that correlate to the home's rating calculated by the home grading scale. Insurance companies then have until October 1, 2011 to make rate filings to revise their mitigation discounts to new ones that correlate to the home's rating. Homeowners then have two years to obtain their home's rating in order to continue to receive mitigation discounts. Thus, by October 1, 2013, all Florida homeowners will have to have their home rated pursuant to the home grading scale or forfeit receipt of mitigation discounts. The most likely way a homeowner will have their home rated is by having a windstorm mitigation inspection that will delineate the home's mitigation features and provide a mitigation rating based on the grading scale.

<sup>4</sup> Ch. 2008-66, L.O.F.; s. 13 created the first part of the phase-in of disclosure that was to begin January 2010, and s. 15 created s. 689.262 F.S., the second part of the phase-in of disclosure that is scheduled to begin January 2011 and that is being proposed for repeal by this bill.

home's windstorm mitigation rating. However, in 2009, before it took effect, this disclosure requirement was repealed.<sup>5</sup>

- The second part of the phase-in<sup>6</sup>, which is to begin on January 1, 2011, and is the subject of the bill, requires sellers of any home in the windborne debris region to disclose the home's rating.

#### Proposed Change

This bill proposes to repeal s. 689.262, F.S., the requirement that sellers of homes in the wind borne debris region<sup>7</sup> disclose to buyers, beginning January 2011, the home's windstorm mitigation rating. Consequently, sellers of homes located in the wind borne debris region will not be subject to a new disclosure requirement that was scheduled to take effect January 2011. As a result, sellers of homes in the wind borne debris region, like sellers in other regions of Florida, will not have to disclose windstorm mitigation ratings to buyers.

#### B. SECTION DIRECTORY:

**Section 1:** Repeals s. 689.262, F.S., relating to the disclosure of a home's windstorm mitigation rating upon sale.

**Section 2:** Provides an effective date of upon becoming a law.

### II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### 1. Revenues:

None.

##### 2. Expenditures:

None.

#### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

##### 1. Revenues:

None.

##### 2. Expenditures:

None.

#### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Sellers of homes located in the specified wind-borne debris region will no longer have to obtain a wind inspection for their home in order to obtain the home's windstorm mitigation rating. Thus, these homeowners will save the cost of the inspection which typically costs \$150 - \$250.

#### D. FISCAL COMMENTS:

None.

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<sup>5</sup> Ch. 2009-87, L.O.F., s.10 removed ("repealed") the first part of the phase-in of disclosure from s. 627.351(6)(a)5., F.S.

<sup>6</sup> Section 689.262, F.S.

<sup>7</sup> The wind borne debris region applicable in s. 689.262, F.S., is the one defined in s. 1609.2 of the 2006 International Building Code. A map is available of the region at [http://www.dca.state.fl.us/fbc/maps/Wind\\_borne\\_MAP\\_081208.pdf](http://www.dca.state.fl.us/fbc/maps/Wind_borne_MAP_081208.pdf).

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

##### 2. Other:

None.

#### B. RULE-MAKING AUTHORITY:

None provided in the bill; however comments relating to rule-making authority contained in current law are provided in the "Other Comments" section of the analysis.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

Current law requiring disclosure of a home's mitigation rating upon sale on or after January 1, 2011, may delay, discourage or prevent home sales in all coastal areas of Florida because sellers are required to obtain a mitigation inspection outlining the rating before selling their home. This puts an additional requirement on a home sale and imposes an additional cost on the home seller.

All home sales located along Florida's coast are impacted by the current law requiring disclosure of a home's mitigation rating as all coastal property in Florida is in the wind borne debris region. For example, all or almost all homes in the following counties are included in the wind borne debris region and are affected: Escambia, Santa Rosa, Bay, Gulf, Franklin, Pinellas, Sarasota, Lee, Collier, Monroe, Miami-Dade, Broward, Palm Beach, Martin, St. Lucie, Indian River, and Brevard.

The current law requiring disclosure of a home's mitigation rating upon sale does not outline a framework for a home to be inspected and rated under the uniform home grading scale promulgated by the Financial Services Commission. Implementation of the current mitigation rating disclosure statute without parameters in place in statute or administrative rule for the implementation could be problematic to Florida home sellers and buyers. If the statute is not repealed, it may be necessary to consider the following issues to ensure an accurate and reliable inspection and rating: the eligibility and qualifications of persons authorized to perform mitigation inspections that establish a home's rating; quality controls and enforcement that ensure inspections are accurate and reliable; and, sanctions that apply to errant inspectors and/or inspections. The lack of parameters in statute or rule on these types of issues could lead to home sellers and buyers receiving inaccurate and unreliable home mitigation inspections and ratings without protection from, or recourse against, unscrupulous mitigation inspectors.

Current law authorizes the Financial Services Commission to adopt rules governing implementation of the home mitigation rating disclosure statute, but, to date, no administrative rules have been proposed or promulgated.

The bill's repeal of the home mitigation rating disclosure statute does not in any way effect the current inspection and mitigation process homeowners utilize to protect their homes and qualify for property insurance discounts. That process is entirely separate and distinct from the current law repealed by this bill.

#### **IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**

The bill was not amended in committee, council, or on the floor. Thus, the filed version of the bill was also the enrolled version of the bill.